

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

2006 FEB 27 PM 2: 52

IN THE MATTER OF THE  
CONSERVATORSHIP FOR  
JEFFERY MARKSMEIER.

Case No. 4:06cv3038

OFFICE OF THE CLERK

Cuming County Court

Case No. PR 01-22

NOTICE OF REMOVAL

Koch Industries, Inc., as Plan Administrator on behalf of the Koch Industries Employee Group Benefit Trust ("the Plan"), by and through counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, removes this action to the United States District Court for the District of Nebraska, from the County Court of Cuming County, Nebraska. The grounds for removal are:

1. On or about January 25, 2006, the co-conservators of Jeffery J. Marksmeier filed an Application for Release of Restriction on Accounts and Determination of Interests in Settlement Proceeds (the "Application") in the County Court of Cuming County, Nebraska, in a case styled *In the Matter of the Conservatorship for Jeffery J. Marksmeier*, Case No. PR 01-22 (hereinafter "the Action"). The Action is now pending before that Court.

2. The Application and the relief sought therein is governed by the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.*

3. The Action is one in which the United States District Court has original jurisdiction under 28 U.S.C. § 1331, in that this case arises under and pursuant to the laws of the United States.

4. The Action is also one in which the United States District Court has original jurisdiction under 28 U.S.C. § 1332, in that the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

5. Jeffery J. Marksmeier was at all times hereto a minor child and a resident of Cuming County, Nebraska.

6. Koch Industries, Inc. was at all times hereto the Plan Administrator on behalf of the Plan and a Kansas Corporation with its principal place of business in Wichita, Kansas.

7. The matter in controversy, exclusive of interest and costs, is One Hundred Thirty Five Thousand Five Hundred Twenty Nine Dollars and Forty One Cents (\$135,529.41), which is greater than the sum or value of \$75,000.00.

8. The Application was filed in the Action on January 25, 2006.

9. The Application was served on Koch Industries, Inc., as Plan Administrator on behalf of the Plan, via certified mail on February 2, 2006.

10. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty days after the receipt of Koch Industries, Inc., as Plan Administrator on behalf of the Plan, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief and/or determination of interests in settlement proceeds against the Plan.

11. Copies of all pleadings, process, and orders served upon Koch Industries, Inc., as Plan Administrator on behalf of the Plan, in the Action are attached as Exhibit 1 in accordance with 28 U.S.C. § 1446(a).

12. Promptly upon filing this Notice of Removal, Koch Industries, Inc., as Plan Administrator on behalf of the Plan, shall give notice in writing thereof to the co-conservators of Jeffery Marksmeier and shall file a copy of this Notice of Removal with the Clerk of the County Court of Cuming County, Nebraska.

WHEREFORE, Koch Industries, Inc., as Plan Administrator on behalf of the Plan, respectfully requests that the case styled *In the Matter of the Conservatorship for Jeffery J. Marksmeier*, Case No. PR 01-22, be removed from the County Court of Cuming County, Nebraska, to this Court.

DATED this 27<sup>th</sup> day of February, 2006.

KOCH INDUSTRIES, INC. as PLAN  
ADMINISTRATOR ON BEHALF OF THE KOCH  
INDUSTRIES EMPLOYEE GROUP BENEFIT  
TRUST,

BY: HARDING, SHULTZ & DOWNS and  
TIM ENGLER – 15940  
ADAM J. PROCHASKA – 22307  
800 Lincoln Square  
121 S. 13th Street  
P.O. Box 82028  
Lincoln, Nebraska 68501-2028  
(402) 434-3000

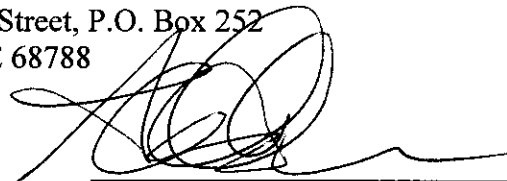
BY: 

One of Said Attorneys

### CERTIFICATE OF SERVICE

I hereby certify that on the 27<sup>th</sup> day of February, 2006, the foregoing was served upon the following individuals via hand delivery:

Daniel P. Bracht  
Law Offices of Daniel P. Bracht  
127 E. Walnut Street, P.O. Box 252  
West Point, NE 68788



One of Said Attorneys

**CT CORPORATION**  
A WoltersKluwer Company

**Service of Process  
Transmittal**  
02/02/2006  
Log Number 510894651

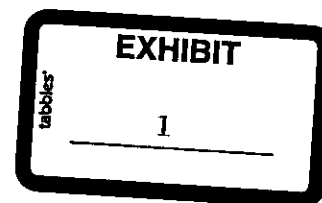
**TO:** Jody Marvin  
Koch Industries, Inc.  
4111 East 37th North  
Wichita, KS, 67220-

**RE: Process Served in Kansas**

**FOR:** Koch Industries, Inc. (Domestic State: KS)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

<b>TITLE OF ACTION:</b>	In the Matter of the Conservatorship for Jeffery J. Marksmeier vs. To: Koch Industries, Inc.
<b>DOCUMENT(S) SERVED:</b>	Application for Release of Restriction on Accounts and Determination of Interests in Settlement Proceeds; Order for Hearing
<b>COURT/AGENCY:</b>	Cuming County District Court, Nebraska, NE Case # PR 01-22
<b>NATURE OF ACTION:</b>	Determination of settlement funds; releasing restrictions
<b>ON WHOM PROCESS WAS SERVED:</b>	The Corporation Company, Inc., Topeka, KS
<b>DATE AND HOUR OF SERVICE:</b>	By Certified Mail on 02/02/2006 postmarked on 01/31/2006
<b>APPEARANCE OR ANSWER DUE:</b>	within 10 days; hearing on March 1, 2006 at 11:30 a.m.
<b>ATTORNEY(S) / SENDER(S):</b>	Daniel P. Bracht, P.C., L.L.O. 127 E. Walnut P.O. Box 252 West Point, NE, 68788
<b>ACTION ITEMS:</b>	SOP Papers with Transmittal, via Fed Ex 2 Day, 790308921135 Image SOP - Page(s): 8 Email Notification, Jody Marvin MARVINJ@KOCHIND.COM Email Notification, Teresa Shaad shaadt@kochind.com Email Notification, Pam Carter carter2p@kochind.com Email Notification, Jane Seely seelyj@kochind.com
<b>SIGNED:</b>	The Corporation Company, Inc.
<b>ADDRESS:</b>	515 South Kansas Avenue Topeka, KS, 66603
<b>TELEPHONE:</b>	785-233-0593



Page 1 of 1 / DG

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action.

Doc. No. 7345

IN THE COUNTY COURT OF Cuming COUNTY, NEBRASKA  
200 So. Lincoln, Room 103  
West Point NE 68788

COVER SHEET

In the Estate of Jeffrey J Marksmeier, Protected person

Case ID: PR 01 22

TO:

Please serve the attached document on the following party:

Koch Industries, Inc  
Attn: Reg. Agent, The Corp. Co. Inc  
515 South Kansas Ave  
Topeka KS 66603 0000

Method of Service: Certified Mail

These special instructions have been added.

Please serve the attached Application for Release of Restriction on  
Accounts and Determination of Interests in Settlement Proceeds and the  
Order for Hearing relating thereto

COPY

IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

IN THE MATTER OF THE  
CONSERVATORSHIP FOR

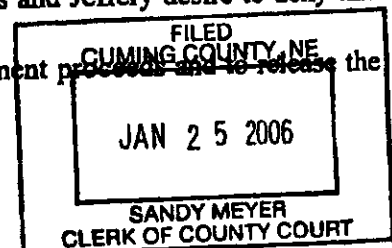
**No. PR 01-22**

**JEFFERY J. MARKSMEIER,**  
a child under nineteen years of age.

**APPLICATION FOR RELEASE OF  
RESTRICTION ON ACCOUNTS AND  
DETERMINATION OF INTERESTS IN  
SETTLEMENT PROCEEDS**

COMES NOW, the Co-conservators, Beth Zoubek, formerly known as Beth Boston, and Harlan Boston, and state:

1. The undersigned are the duly appointed Co-conservators of Jeffery J. Marksmeier, a minor child and protected person herein ("Jeffery").
2. On or about April 20, 1999, Jeffery was severely burned in a fire occurring on real estate owned by Karen Marx. The severe burns have required surgery and a substantial amount of therapy and recovery time. Jeffery has been permanently disfigured with scarring on his face, neck, back, arms and chest areas of his body.
3. Jeffery, by and through his attorney, Daniel P. Bracht, has pursued his personal injury claims against Marx arising out of her ownership of the property where the burning incident occurred.
4. The Co-conservators, by and through Jeffery J. Marksmeier's attorney, Daniel P. Bracht, negotiated a settlement of Jeffery's potential claims against Marx and that settlement was approved by this court.
5. Certain subrogation and reimbursement claims of Koch Industries, Inc. in and to a portion of the settlement proceeds paid by Marx were to be resolved at a later date.
6. Jeffery is now of legal age. The Co-Conservators and Jeffery desire to deny and eliminate any claim of Koch Industries, Inc. in and to the settlement proceeds and to release the



restrictions on the payment of funds for Jeffery's benefit contained in previous orders of this court.

WHEREFORE, the Co-conservators pray for an order of this Court:

- i) determining that the Marx settlement funds held by the Co-conservators are not subject to any claim by Koch Industries;
- ii) releasing the restrictions on the bank accounts held by the Co-Conservators and authorizing the Co-Conservators to pay such amounts from the funds held to or for the benefit of Jeffery as they deem appropriate, provided they continue to account for all expenditures; and
- iii) for such other relief as may be appropriate.

Dated: December 29, 2005.

  
Beth Zoutsek, f/k/a Beth Boston, Co-conservator


  
Harlan Boston, Co-conservator

Consent

The undersigned, Jeffery Marksmeier, the ward in this proceeding, hereby consents to the relief requested by the Co-Conservators herein and waives any and all requirements for future notice of hearings and service of process herein and voluntarily enters his appearance herein.

  
Jeffery Marksmeier

The undersigned, James Marksmeier, the biological father of the ward in this proceeding, hereby consents to the relief requested by the Co-Conservators herein and waives any and all requirements for future notice of hearings and service of process herein and voluntarily enters his appearance herein.

  
James Marksmeier

FILED  
CUMING COUNTY, NE  
JAN 25 2006  
SANDY MEYER  
CLERK OF COUNTY COURT

**IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA**

**IN THE MATTER OF THE  
CONSERVATORSHIP FOR**

**JEFFERY J. MARKSMEIER,**  
a child under nineteen years of age.

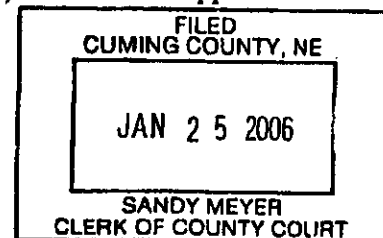
**No. PR 01-22**

## ORDER FOR HEARING

Upon consideration of the filing of an Application for Release of Restriction on Accounts and Determination of Interests in Settlement Proceeds by the Co-Conservators in the above-captioned matter seeking the relief set forth therein (the "Applications"), the Court finds that certain preliminary matters must be acted upon at this time.

**IT IS THEREFORE ORDERED that:**


1. A hearing should be held on the Application filed herein.
2. The Application will come on for hearing on March 1, 2006 at 11:30 a.m., in the County Court of Cuming County in the Courtroom on the third floor of the Cuming County Courthouse, 200 South Lincoln Street, in West Point, Nebraska, or as soon thereafter as the parties may be heard.
3. The Court finds that all interested parties, except Koch Industries, Inc., have signed the Application or Consents to the relief requested in the Application, and have waived any and all requirements for future notice of hearings and service of process herein and voluntarily entered their appearance herein. Therefore, for good cause shown i) published notice in connection with the Application is waived, and ii) the requirement of sending written notice of the hearing on the Application is waived, except for Koch Industries, Inc.
4. The Co-Conservators shall serve Koch Industries, Inc. with the Application and this Order for Hearing as provided by law.





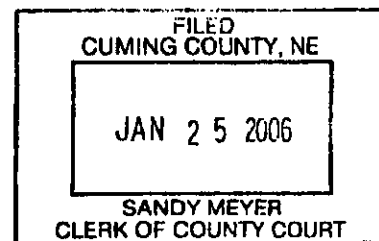
Dated: 1/25/06

BY THE COURT:

*Sandy Meyer*  
~~County Judge~~ Clerk Mag. 

PREPARED AND SUBMITTED BY:

Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht  
127 E. Walnut Street, P.O. Box 252  
West Point, NE 68788  
(402) 372-5500



IN THE COUNTY COURT OF Cuming COUNTY, NEBRASKA  
200 So. Lincoln, Room 103  
West Point NE 68788

Doc. No. 7345

COVER SHEET

In the Estate of Jeffrey J Marksmeier, Protected person

Case ID: PR 01 22

TO:

Please serve the attached document on the following party:

Koch Industries, Inc  
Attn: Reg. Agent, The Corp. Co. Inc  
515 South Kansas Ave  
Topeka KS 66603 0000

Method of Service: Certified Mail

These special instructions have been added.

Please serve the attached Application for Release of Restriction on  
Accounts and Determination of Interests in Settlement Proceeds and the  
Order for Hearing relating thereto

**RETURN**

Received this Summons and copy of the petition on \_\_\_\_\_, 20 \_\_, at \_\_\_\_\_ o'clock  
 \_\_\_\_\_ m. I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, I served the within Summons  
 and copy of the petition on \_\_\_\_\_  
 by \_\_\_\_\_  
 at \_\_\_\_\_ o'clock \_\_\_\_\_ m. at \_\_\_\_\_  
 (address)

a true and certified copy thereof with all the endorsements thereon, in the county aforesaid.

Service and return \$ \_\_\_\_\_  
 Copy \_\_\_\_\_  
 Mileage \_\_\_\_\_ miles \_\_\_\_\_  
 TOTAL \$ \_\_\_\_\_

Date: ☐ Sheriff: \_\_\_\_\_ ☐ Authorized Person: \_\_\_\_\_

(The person serving the summons, other than by certified mail, shall make proof of service to the Court stating the time, place, including the address if applicable, name of the person with whom the summons was left, and method of service, or return the unserved summons to the Court with a statement of the reason for the failure to serve.)

(When service is by certified mail, the plaintiff or plaintiff's attorney shall file proof of service within 10 days after return of the signed receipt.)

**CERTIFIED MAIL**  
**PROOF OF SERVICE BY AFFIDAVIT**

STATE OF NEBRASKA  
 \_\_\_\_\_ COUNTY

A copy of this summons, with a copy of the petition attached, was mailed by certified mail, return receipt requested showing to whom and where delivered and the date of delivery to defendant: \_\_\_\_\_ at the  
 following address: \_\_\_\_\_ on  
 \_\_\_\_\_, 20 \_\_, which was within ten days of issuance as required by Nebraska  
 Statute.

The return receipt was signed on \_\_\_\_\_, 20 \_\_ (signed return receipt attached); all  
 done pursuant to the Nebraska Revised Statutes.

Attorney for: \_\_\_\_\_

Subscribed and sworn before me \_\_\_\_\_, 20 \_\_

Notary Public

POSTAGE: \_\_\_\_\_

IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

IN THE MATTER OF THE ) NO. PR 01-22  
CONSERVATORSHIP FOR )  
 ) PRAECIPE  
 )  
JEFFREY J. MARKSMEIER, )  
a child under nineteen years of age. )

TO: Clerk of the Cuming County Court.

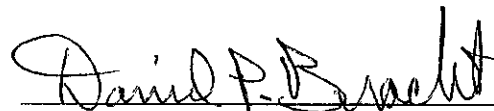
Please issue a summons for service of the Application for Release of Restriction on Accounts and Determination of Interests in Settlement Proceeds, and the Order for Hearing relating thereto, to Koch Industries, Inc., by certified mail service upon its registered agent at the following address:

The Corporation Company, Inc.  
515 South Kansas Avenue  
Topeka, KS 66603-0000

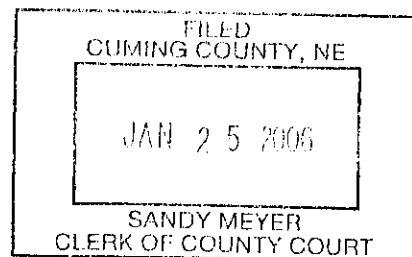
When the summons for service is complete, please call the undersigned for service of same.

Jeffrey J. Marksmeier

By:



Daniel P. Bracht, #19501  
Law Offices of Daniel P. Bracht, P.C., LLO  
127 E Walnut Street  
P.O. Box 252  
West Point, NE 68788  
(402) 372-5500



## IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

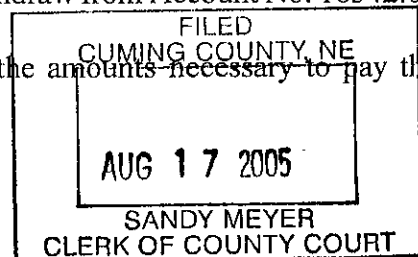
IN THE MATTER OF THE	)	No. PR 01-22
CONSERVATORSHIP FOR	)	
	)	ORDER APPROVING
	)	APPLICATION FOR ORDER
JEFFERY J. MARKSMEIER,	)	ALLOWING WITHDRAWAL OF FUNDS
a child under nineteen years of age.	)	

This matter came on for hearing on August 10, 2005, on the Application for Order Allowing Withdrawal of Funds by the Co-conservators (the "Applications"). Daniel P. Bracht appeared on behalf of Jeffery Marksmeier and Co-conservators. There were no other appearances. Upon consideration of the Application, evidence and the court file in this matter, the Court finds as follows:

1. Beth Boston and Harlan Boston are the duly appointed and acting Co-conservators for the minor child, Jeffery Marksmeier.
2. That the notice of the hearing on the Application was sent to all interest parties.
3. The relief requested in the Application is in all respects appropriate and in the best interest of the protected person, Jeffery J. Marksmeier, and should be approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

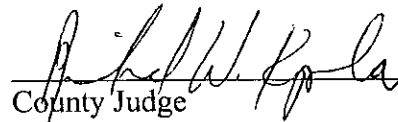
- i) the Co-conservators are hereby authorized to direct Daniel P. Bracht to make payment of the amounts set forth and described in the Application from funds held by Daniel P. Bracht in trust to the extent such funds are sufficient to cover such debts, and to return any excess funds held in trust to the Co-conservators for deposit into the ward's Account No. 16342.00 at the Nebraska Energy Federal Credit Union.
- ii) the Co-conservators are hereby authorized to withdraw from Account No. 16342.00 at the Nebraska Energy Federal Credit Union the amounts necessary to pay the




ward's ongoing monthly charges received from the Nebraska Department of Health and Human Services for DDD Community Based Services provided to the ward, not to exceed \$1,000.00 per month.

Dated this 17<sup>th</sup> day of August, 2005.

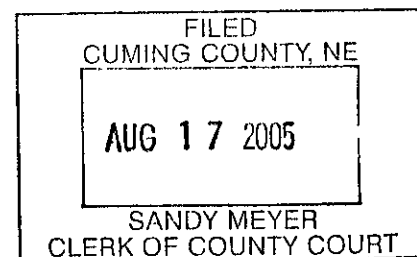
BY THE COURT

  
County Judge



PREPARED AND SUBMITTED BY:

Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht  
127 E Walnut St, P.O. Box 252  
West Point, NE 68788  
(402) 372-5500



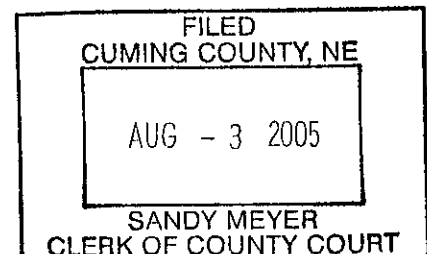
## IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

IN THE MATTER OF THE	)	No. PR 01-22
CONSERVATORSHIP FOR	)	
	)	APPLICATION FOR ORDER ALLOWING
JEFFERY MARKSMEIER.	)	WITHDRAWAL OF FUNDS

COMES NOW the co-conservators duly appointed herein, and make application for an order of this court allowing them to direct the release of funds owned by the ward and currently held in the trust account of Daniel P. Bracht, in the amount of \$5,000.00, and from other funds of the ward in order to pay certain recurring obligations and other amounts owed by the ward as follows: i) pay state and federal taxes for the ward, ii) pay fines and restitution costs of the ward, iii) pay attorney fees of the ward to Daniel P. Bracht relating to the representation of the ward in certain criminal matters in Cuming County, Nebraska, and iv) to pay recurring monthly charges to Nebraska Health and Human Services for living assistance services provided to the ward.

In support of said application, the undersigned state as follows:

1. By order of this Court, \$5,000.00 was paid over and held in the trust account of Daniel P. Bracht. The amount was to be used to retain, consult with and pay for expert witness fees and expenses in the litigation pending in the District Court of Cuming County, Nebraska found at Case No. CI 03-42 and captioned "Jeffery J. Marksmeier, Beth Boston, and Harlan Boston, Plaintiffs, vs. McGregor Corporation, a corporation, now known as McGregor II, L.L.C., a Delaware limited liability company; Standard Knitting Mills, Inc. a corporation, now known as Delta Apparel, Inc. a Georgia corporation; McGregor-Doniger, Inc., a corporation, and John Doe No. 1 through John Doe No. 8, real names unknown, Defendants." (the "Lawsuit"). The Lawsuit was dismissed on summary judgement prior to any such expenses being incurred. The matter is on appeal. The \$5,000.00 is available for use by the ward.



2. Jeff owes state taxes for the years 2002 and 2004 in the approximate amounts of \$241.67 and \$184.00 respectively. Jeff owes federal taxes for the years 2002, 2003, and 2004 in the approximate amounts of \$764.42, 679.00 and 583.00 respectively.

3. Jeff owes restitution and fines arising out of a Cuming County criminal charge in the amount of \$1,790.02. Jeff owes \$589.00 in attorney fees and costs to Daniel P. Bracht arising out of that same criminal matter.

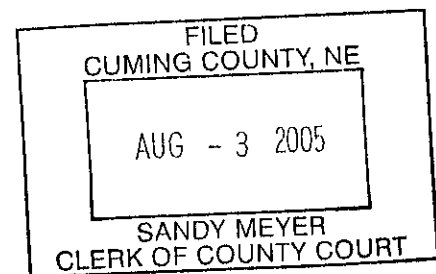
4. Jeff is receiving community based living assistance from the Nebraska Health and Human Services Agency. Jeff has been receiving that assistance for a number of months. Jeff is charged a fluctuating amount of approximately \$987.29 per month for such services, as evidenced by the statement for June, 2005 attached hereto. The services provided to Jeff assist him in seeking employment and in developing living skills intended to assist him in independent living.

5. The amounts incurred for the community based living assistance are expected to continue on a monthly basis for an indefinite time into the future.

6. Jeffery Marksmeier hereby requests that the sum requested herein be paid over to Conservators for the payment of the items listed above, or directly to the providers and other creditors entitled thereto.

WHEREFOR, the undersigned applicants desire to obtain an order allowing them to obtain the \$5,000.00 held in the Trust Account of Daniel P. Bracht, P.C., L.L.O. and in other accounts of the ward, for use in accordance with the statements in this Application and as may be ordered by this Court.

Dated this 3<sup>rd</sup> day of August, 2005.





Jeffery Marksmeier, by his Co Conservators,  
Beth Boston and Harlan Boston,

By:

Daniel P. Bracht

Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht P.C., L.L.O.  
127 E. Walnut St, P.O. Box 252  
West Point, NE 68788  
(402) 372-5500

#### NOTICE OF HEARING

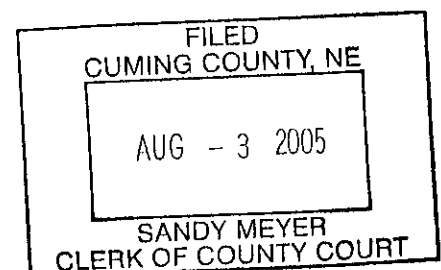
The Application for Order Allowing Withdrawal of Funds will come on for hearing on August 10, 2005 at 3:45 p.m., before the County Court Judge, in the County Court Courtroom of Cuming County, third floor Cuming County Courthouse, 200 South Lincoln Street, in West Point, Nebraska, or as soon as the parties may be heard. Those having any opposition or objection to the proposed transfer of funds may appear at that time and place and present such objections to the Court.

Daniel P. Bracht

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing Application for Order Allowing Withdrawal of Funds and Notice of Hearing was served upon Nebraska Energy Federal Credit Union, 1414 15<sup>th</sup> Street, P.O. Box 499, Columbus, NE 68602, Beth Boston, 419 Oak Street, Clarkson, NE 68629, Harlan Boston, 450 S River Street, West Point, NE 68788, Jeffery Marksmeier, 617 8<sup>th</sup> Street, P.O. Box 854, Wisner, NE 68791, James Marksmeier, 617 8<sup>th</sup> Street, P.O. Box 854, Wisner, NE 68791, and Allan Caldwell, Koch Industries, Inc., P.O. Box 2256, Wichita, KS 67201-2256 this 3<sup>rd</sup> day of August, 2005, by United States first class mail, postage prepaid.

Daniel P. Bracht



MAIL PAYMENT TO:  
 NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM  
 DEPARTMENT OF FINANCE AND SUPPORT  
 FINANCIAL RESPONSIBILITY DIVISION  
 P.O. BOX 98936  
 LINCOLN, NE 68509-8936

**STATEMENT - 06/30/2005**

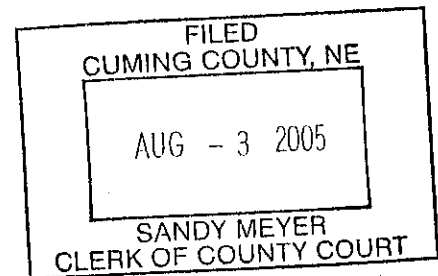
**DDD COMMUNITY BASED SERVICES FOR:**

Client Name: JEFFREY J MARKSMEIER  
 Client Name:  
 Account Name: JEFFREY J MARKSMEIER  
 Account #: 95437004

Amount Paid \$ \_\_\_\_\_  
 (Make checks payable to NE Health & Human Services System)

JEFFREY J MARKSMEIER  
 639 V RD  
 WISNER NE 68791

Account Activity Since Last Statement			
DATE	DESCRIPTION	CHARGE	BALANCE
		PRIOR BALANCE	\$726.84
06/30/2005	MONTHLY AMOUNT DUE	\$987.29	
		NEW BALANCE	\$1,714.13



THIS IS YOUR BALANCE DUE AS OF THE DATE SHOWN ABOVE. PAYMENTS RECEIVED AFTER THIS DATE WILL BE REFLECTED ON YOUR NEXT STATEMENT. ALL ACCOUNTS ARE DUE 30 DAYS FOLLOWING STATEMENT DATE.

FOR YOUR INFORMATION, PLEASE SEE THE REVERSE SIDE FOR THE ACTUAL MONTHLY COSTS TO THE STATE OF NEBRASKA FOR SERVICES PROVIDED.

78305534

## IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

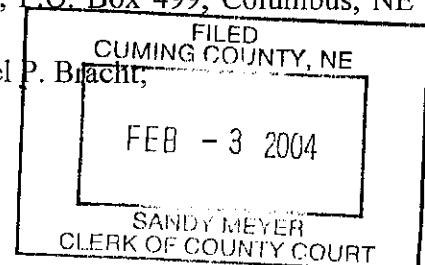
IN THE MATTER OF THE	)	No. PR 01-22
CONSERVATORSHIP FOR	)	
	)	ORDER APPROVING APPLICATION
	)	FOR ORDER ALLOWING TRANSFER
JEFFERY J. MARKSMEIER,	)	OF FUNDS
a child under nineteen years of age.	)	

This matter came on for hearing on February 3, 2004, on the Application for Order Allowing Transfer of Funds filed by the Co-conservators (the "Application"). Daniel P. Bracht appeared on behalf of Jeffery J. Marksmeier and the Co-conservators. ~~There were no other appearances.~~ Upon consideration of the Application, and the court file in this matter, the Court finds as follows:

1. Beth Boston and Harlan Boston are the duly appointed and acting Co-conservators for the minor child, Jeffery Marksmeier.
2. That the notice of the hearing on the Application was sent to all interested parties.
3. Jeffery J. Marksmeier, the protected person, is twenty years old and has joined in the relief requested in the Application.
4. The relief requested in the Application is in all respects appropriate and in the best interest of the protected person, Jeffery J. Marksmeier, and should be approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

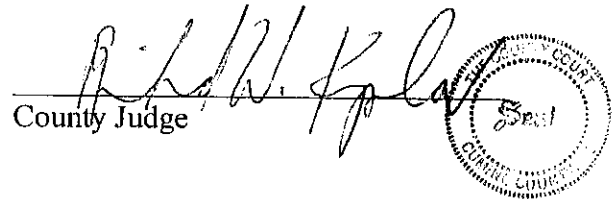
- i) the Co-conservators are hereby authorized to withdraw \$5,000.00 currently held by the Co-conservators for the protected person in the Nebraska Energy Federal Credit Union, P.O. Box 499, Columbus, NE 68602-0499;
- ii) the Co-conservators are authorized and directed to deposit the \$5,000.00 withdrawn from the Nebraska Energy Federal Credit Union, P.O. Box 499, Columbus, NE 68602-0499, in the attorney trust account of Daniel P. Bracht,



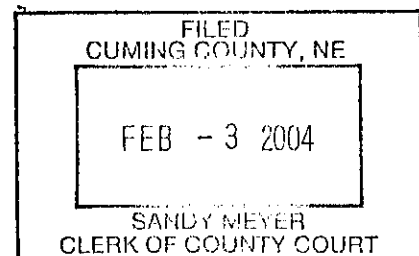
- iii) any withdrawals or transfers of the funds so deposited in the trust account of Daniel P. Bracht shall be used only to pay retainer fees and consultation fees to experts and pay for time and expenses incurred by the expert in rendering opinions to or on behalf of Jeffery Marksmeier in the litigation described in the Application;
- iv) any unused portion of the funds transferred herein, if any, shall be retained in the trust account of Daniel P. Bracht pending further order of the court;
- v) no amount from the transferred funds will be used to pay for any attorney fees of Daniel P. Bracht;
- vi) no amount from the transferred funds will be used to pay for any attorney costs and expenses of Daniel P. Bracht incurred in the litigation described in the Application and separate application shall be made in the event such costs and expenses are requested.

Dated this 3rd day of February, 2004.

BY THE COURT

  
County Judge

PREPARED AND SUBMITTED BY:  
Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht, P.C., L.L.O.  
127 E. Walnut St., P.O. Box 252  
West Point, NE 68788  
(402) 372-5500



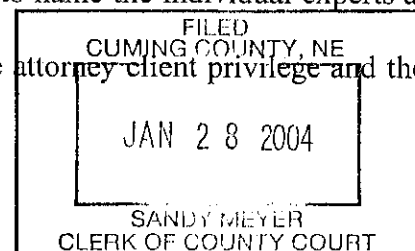
## IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

IN THE MATTER OF THE	)	No. PR 01-22
CONSERVATORSHIP FOR	)	
	)	APPLICATION FOR ORDER ALLOWING
JEFFERY MARKSMEIER.	)	WITHDRAWAL OF FUNDS

COMES NOW the co-conservators duly appointed herein, and make application for an order of this court allowing them to withdraw funds of the ward, Jeffery Marksmeier, in the amount of \$5,000.00 from Nebraska Energy Federal Credit Union, P.O. Box 499, Columbus, NE 68602-0499 in order to retain, consult with and pay for expert witness fees and expenses in the litigation pending in the District Court of Cuming County, Nebraska found at Case No. CI 03-42 and captioned "Jeffery J. Marksmeier, Beth Boston, and Harlan Boston, Plaintiffs, vs. McGregor Corporation, a corporation, now known as McGregor II, L.L.C., a Delaware limited liability company; Standard Knitting Mills, Inc. a corporation, now known as Delta Apparel, Inc. a Georgia corporation; McGregor-Doniger, Inc., a corporation, and John Doe No.'s 1 through John Doe No. 8, real names unknown, Defendants."

In support of said application, the undersigned state as follows:

1. The attorney for Jeffery Marksmeier desires to be able to confer and consult with various medical and other experts and potential experts with regard to issues pending in the above described lawsuit. In order to do so, Jeffery Marksmeier will be required to pay retainer fees and consultation fees to such experts and pay for time and expenses incurred by the expert in rendering opinions to or on behalf of Jeffery Marksmeier.
2. The attorney for Jeffery Marksmeier desires not to name the individual experts at issue in this Application in order to preserve the attorney client privilege and the

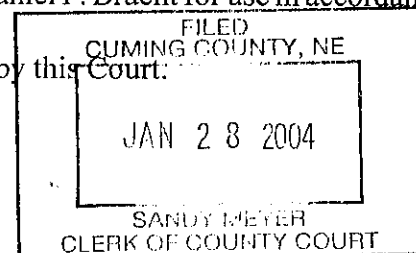


attorney work product doctrine protections from disclosure to outside third parties until such time as required by the applicable Nebraska Discovery Rules as part of the above described litigation.

3. Jeffery Marksmeier hereby requests that the sum requested herein be paid over to the Trust Account of Daniel P. Bracht for use as described herein.
4. Daniel P. Bracht hereby represents and agrees that no amount from the requested funds will be used to pay for any attorney fees of Daniel P. Bracht.
5. Daniel P. Bracht hereby represents and agrees that no amount from the requested funds will be used to pay for any attorney costs and expenses of Daniel P. Bracht incurred in the above described litigation and that separate application shall be made in the event such costs and expenses are requested.
6. Jeffery Marksmeier is 20 years of age.
7. The funds requested will be used to pursue the interest of Jeffery Marksmeier in the above described lawsuit and it is in his best interest that the funds be paid over as requested herein.
8. Any unused portion of the funds requested herein, if any, shall be retained in the trust account of Daniel P. Bracht pending further order of the court.
9. Pursuant to this court's previous orders in this proceeding, no transfer or payments may be made from the conservator controlled accounts without prior court approval.

WHEREFOR, the undersigned applicants desire to obtain an order allowing them to withdraw \$5,000.00 for payment over to the Trust Account of Daniel P. Bracht for use in accordance with the statements in this Application and as may be ordered by this Court:

Dated this 28<sup>th</sup> day of January, 2004.



Jeffery Marksmeier, by his Co Conservators,  
Beth Boston and Harlan Boston,

By:

Daniel P. Bracht

Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht P.C., L.L.O.  
127 E. Walnut St, P.O. Box 252  
West Point, NE 68788  
(402) 372-5500

Jeff Marksmeier  
Jeffery Marksmeier

Beth C Boston  
Beth Boston, Co-Conservator

Harlan E Boston  
Harlan Boston, Co-Conservator

#### NOTICE OF HEARING

The Application for Order Allowing Withdrawal of Funds will come on for hearing on February 3, 2004, at 3:30 p.m., before the County Court Judge, in the County Court Courtroom of Cuming County, third floor Cuming County Courthouse, 200 South Lincoln Street, in West Point, Nebraska, or as soon as the parties may be heard. Those having any opposition or objection to the proposed transfer of funds may appear at that time and place and present such objections to the Court.

Daniel P. Bracht

CUMING COUNTY, NE

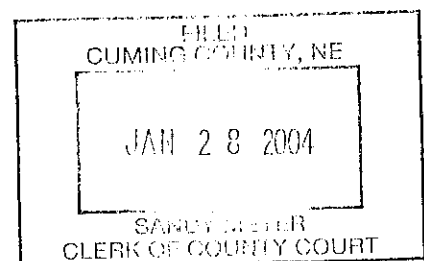
JAN 28 2004

SANDY MEYER  
CLERK OF COUNTY COURT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing Application for Order Allowing Withdrawal of Funds and Notice of Hearing was served upon Nebraska Energy Federal Credit Union, 1414 15<sup>th</sup> Street, P.O. Box 499, Columbus, NE 68602, Beth Boston, 213 Fraiser, P.O. Box 73, Beemer, NE 68716, Harlan Boston, 450 S River Street, West Point, NE 68788, Jeffery Marksmeier, 617 8<sup>th</sup> Street, P.O. Box 854, Wisner, NE 68791, James Marksmeier, 617 8<sup>th</sup> Street, P.O. Box 854, Wisner, NE 69791, and Allan Caldwell, Koch Industries, Inc., P.O. Box 2256, Wichita, KS 67201-2256 this 28<sup>th</sup> day of January, 2004, by United States first class mail, postage prepaid.

Daniel P. Bracht





## IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

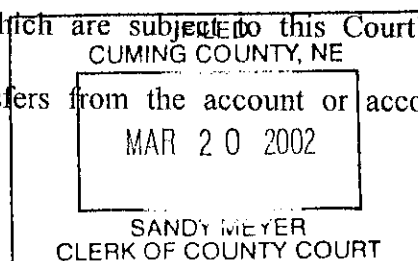
IN THE MATTER OF THE	)	No. PR 01-22
CONSERVATORSHIP FOR	)	
	)	ORDER APPROVING APPLICATION
	)	FOR ORDER ALLOWING TRANSFER
JEFFERY J. MARKSMEIER,	)	OF FUNDS
a child under nineteen years of age.	)	

This matter came on for hearing on March 20, 2002, on the Application for Order Allowing Transfer of Funds filed by the Co-conservators (the "Application"). Daniel P. Bracht appeared on behalf of Jeffery J. Marksmeier and the Co-conservators. There were no other appearances. Upon consideration of the Application, and the court file in this matter, the Court finds as follows:

1. Beth Boston and Harlan Boston are the duly appointed and acting Co-conservators for the minor child, Jeffery Marksmeier.
2. That the notice of the hearing on the Application was sent to all interested parties.
3. The relief requested in the Application is in all respects appropriate and in the best interest of the protected person, Jeffery J. Marksmeier, and should be approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

- i) the Co-conservators are hereby authorized to withdraw all amounts currently held by the Co-conservators for the protected person in the Farmers & Merchants National Bank in West Point, Nebraska;
- ii) the Co-conservators are authorized and directed to deposit all amounts withdrawn from the Farmers & Merchants National Bank in West Point, Nebraska, in an account, or accounts, or certificates of deposit with the Nebraska Energy Federal Credit Union, Columbus, Nebraska, which are subject to this Court's order restricting further withdrawals or transfers from the account or accounts of




certificates of deposit; all accounts shall be insured above the amounts of the deposit or equal thereto.

- iii) no withdrawals or transfers of the funds so deposited shall be made without the prior approval of the Court, after a hearing and notice to the interested parties.

Dated this 20<sup>th</sup> day of March, 2002.

BY THE COURT

Richard W. Spalding  
County Judge



PREPARED AND SUBMITTED BY:

Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht  
127 W. Bridge St, P.O. Box 252  
West Point, NE 68788  
(402) 372-5500

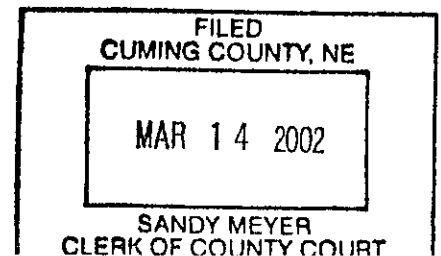
## IN THE COUNTY COURT OF CUMING COUNTY, NEBRASKA

IN THE MATTER OF THE	)	No. PR 01-22
CONSERVATORSHIP FOR	)	
	)	APPLICATION FOR ORDER ALLOWING
JEFFERY MARKSMEIER.	)	TRANSFER OF FUNDS

COMES NOW the co-conservators duly appointed herein, and make application for an order of this court allowing them to transfer the remaining funds of the ward, Jeffery Marksmeier, from Farmers & Merchants National Bank, account number 00221N508, to a similarly restricted interest bearing accounts or certificate of deposits with Nebraska Energy Federal Credit Union, P.O. Box 499, Columbus, NE 68602-0499.

In support of said application, the undersigned state as follows:

1. The amount currently held in Farmers & Merchants National Bank under a restricted transfer account is \$241,518.00, as of February 28, 2002.
2. Pursuant to this court's order in this proceeding, no transfer or payments may be made from this account without prior court approval.
3. This account pays interest at the rate of 1.50% per year.
4. The interest bearing accounts and certificates of deposit at Nebraska Energy Federal Credit Union pay higher rates of interest. The Co-conservators believe it is in the best interest of the ward that the funds currently held be transferred into higher interest bearing accounts.
5. The Co-conservators would like to obtain accounts bearing higher yielding interest rates for the benefit of the ward.
6. Pursuant to this court's prior orders, consent of the court, after notice to the interested parties must be obtained prior to any transfer.

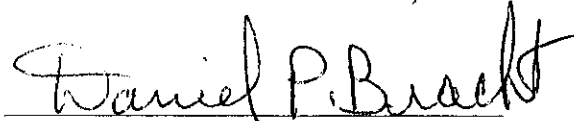


WHEREFOR, the undersigned applicants desire to obtain an order allowing them to transfer the funds into interest bearing accounts or certificates of deposit with Nebraska Energy Federal Credit Union in order to obtain higher interest returns for the ward, under the same transfer restrictions as are currently in place.

Dated this 14<sup>th</sup> day of March, 2002.

Jeffery Marksmeier, by his Co Conservators,  
Beth Boston and Harlan Boston,

By:

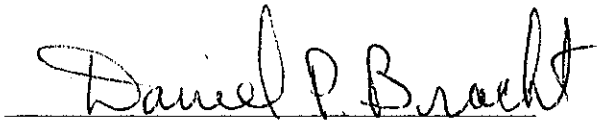


Daniel P. Bracht, 19501  
Law Offices of Daniel P. Bracht  
127 E. Walnut St, P.O. Box 252  
West Point, NE 68788  
(402) 372-5500

#### NOTICE OF HEARING

The Application for Order Allowing Transfer of Funds of the Co-Conservators will come on for hearing on March 20, 2002, at 2:30 p.m., before the County Court Judge, in the County Court Courtroom of Cuming County, third floor Cuming County Courthouse, 200 South Lincoln Street, in West Point, Nebraska, or as soon as the parties may be heard.

Those having any opposition or objection to the proposed transfer of funds may appear at that time and place and present such objections to the Court.



#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above and foregoing Application for Order Allowing Transfer of Funds and Notice of Hearing were served upon Allan Caldwell, Koch Industries, Inc., P.O. Box 256, Wichita, KS 67201, Beth Boston, P.O. Box 73, Beemer, NE 68716, Harlan Boston, 450 S River Street, West Point, NE 68788, Jeffery Marksmeier, P.O. Box 73, Beemer, NE 68716 and James Marksmeier, P.O. Box 804, Wisner, NE 69791, this 14<sup>th</sup> day of March, 2002, by United States first class mail, postage prepaid.

